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List of issues and questions in relation to the combined third and fourth periodic reports of Tuvalu

Addendum

Replies of Tuvalu**

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Definition of discrimination

1. The Government of Tuvalu reaffirms Tuvalu's commitment to continue promoting gender equality. It is a priority on the Government's Road Map to review laws that have discriminatory provisions which includes the Constitution. The government has made a collective decision for consultations to be carried out to the outer islands for the review and the Office of the Attorney General will take on the lead to undertake these consultations soon. However the process will need a lot of financial support and assistance. In order for Tuvalu to fully realise women's human rights, requires us to have a more practical approach, sufficient and dedicated resources and inspiring partnerships. Therefore the Office of the Attorney General is working on a way forward and trying to put together a strategic plan as to when and how the consultations will be carried out as it will involve a thorough review of the laws particularly focusing on those that have discriminatory provisions.

The Family Protection and Domestic Violence Bill will be passed in the upcoming session of Parliament. The Bill after being taken out for massive consultations to all the outer islands, is now ready for final polishing up and will be brought up during the next session of Parliament in December 2014. One of the main purposes for having this Bill is to try and prohibit all forms of discrimination against women and children especially in domestic relationships and protecting their rights as they deserve.

Discriminatory laws and practices

2. The government envisions having a thorough review of its laws that have discriminatory provisions against women and children such as those stated above. Reviewing the Constitution as mentioned in question 1 above will be part of this review process which will be a priority. The work is in its preparatory stage in which planning, financial matters are to be considered and also as to how and when exactly the review will start. However the government has made a collective decision and prioritises consultations to the outer islands to start as soon as the preliminary stages are ready.

3. The application of customary law as part of the Laws of Tuvalu is subject to the extent that its enforcement or recognition in a particular circumstance is in the public interest and does not result in injustice. That is, the courts could take into consideration customary law as long as its application is not contradictory to the principles of justice or against the public interest.

In 2010 a law was passed in Tuvalu which was the result of the Constitutional-Human Rights case of Teonea v Pule o Kaupule of Nanumaga [2009] TVCA 2. The Religious Organisations Restriction Act 2010 was passed by Parliament to restrict the spread of beliefs and practices by religious organizations and associations of persons in a manner which undermines the traditional authority of the Falekaupule and the traditional values of island communities.

However it is very important to note that it is not the intention of the State party to pass such a law to weaken or undermine the enforcement and recognition of the freedom of belief of individuals under section 23 of the Constitution. Rather it is a measure taken to bring into line or balance up the recognition of customary law as

part of the Laws of Tuvalu and the obligations of the State party under the Convention considering the values and norms of each island community.

Visibility of the convention

4. The last training for law enforcement officers on the convention was earlier this year 2014 apart from the previous ones in 2013 and 2007. Awareness programmes on CEDAW are usually held during International Women's Day, White Ribbon Day and Human Rights Day. The Gender Affairs Department organized a Training of Trainers this year (2014) workshop with the aim of gender mainstreaming in government line ministries and NGOs.

The Family Protection and Domestic Violence Bill has gone through massive consultations in the outer islands and also on the main island which is part of Tuvalu's obligation under CEDAW. The Gender Affairs Department and the Office of the Attorney General under the expert assistance from SPC RRRT are currently working on an Implementation Plan for the Family Protection and Domestic Violence Bill once it is passed by Parliament in December 2014. This Implementation Plan will further elaborate more on training of persons who have major roles and functions under the Bill once it becomes a law.

Access to justice

5. The Judiciary in Tuvalu, in particular the Senior Magistrate and his court party usually undertakes tours to the outer islands to hear pending cases on the outer islands which includes criminal, civil and any other cases that are pending. The People's Lawyer as part of such court party, gives an opportunity to work with the general public. For instance seeing individuals that need legal assistance including women and children.

Recently, the People's Lawyer's Office has a regular programme through the media as an awareness with regards to any issue that may be of importance to the general public with regards to the services that the Office of the People's Lawyer offers. This basically involves legal assistance on matters such as adoption, divorce, land matters, human rights related matters and other legal services that the Office of the People's Lawyer may offer to the general public as a whole.

Every year Tuvalu commemorates the Human Rights Day. The Gender Affairs Department is the responsible office that usually works with the Police and also the Office of the Attorney General in preparation for such day. The activities involved on such day is raising awareness on human rights issues such as rights of women, children, persons with disabilities etc.

As mentioned earlier, the government envisions having a thorough review of its laws that have discriminatory provisions and in particular to fully recognize people's human rights and also to cater for the State party's obligations under the Human Rights Conventions that it had ratified. The Family Protection and Domestic Violence Bill which will be passed in the December 2014 session of Parliament is a step forward with regards to Tuvalu's collective effort in trying to domesticate related human rights issues into its national laws.

National machinery for the advancement of women

6. The Department of Women now known as the Gender Affairs Department has been given the necessary assistance from the Government in the past years with regards to financial resources and human resources. Although it's not sufficient to fully implement its Corporate Plan, the Department relies on the support of international agencies such as UN Women, South Pacific Community (SPC), Regal Rights Resource Team (RRRT), Pacific Islands Forum Secretariat (PIFs), UNFPA and Taiwan. However the Department requires more staffs and will seek the approval of superior officers and cabinet to make it happen in order to fully implement its Policy and Strategic Plan.

The new National Gender Policy and Strategic Plan has been launched in October this year. Development agencies such as South Pacific Community (SPC) and Pacific Women Shaping Pacific Development show their full support in providing funding assistance in the Implementation of the Policy.

In 2009 the Department of Women identified a group of interested women who were keen to run small based businesses. This involved training them on basic business entrepreneurship and worked closely with the Development Bank in writing business plans and managing their own businesses. More than a half of the women who undertook this training are now managing their own small businesses.

Temporary special measures

7. There are continuously radio programme on Temporary Special Measures for public awareness. The Policy Paper mainly recommending Cabinet to consider changing the current system of 2 seats per island constituent to be a male and a female seat. Cabinet responded that consultation should be made to all island community before it is taken up for final endorsement of Cabinet.

There have been talks around Temporary Special Measures during the outer islands consultations on the Family Protection and Domestic Violence Bill. However since it is very crucial that the grassroots people do understand the perspective and idea of having TSM, the Gender Affairs Department together with the RRRT Country Focal Officer are planning more consultations on Temporary Special Measures as there is much concern raised by the general public on it.

Stereotypes and cultural practices

8. Like any country in the world traditional patriarchal attitudes and gender stereotypes contribute to gender discrimination and stereotype. Ongoing awareness on the radio and workshops for men and women during International Women's Day Commemoration and White Ribbon Day Commemoration to address those kind of behaviours. The Family Protection Bill that have been tabled in the last parliament in June for its first reading and will become an act in December Parliament this year will address the problem. The act will protect Women from Domestic Violence that includes emotional stress from such behaviours. A monitoring mechanism required in the Family Protection Bill will also help to end patriarchal attitudes and gender stereotypes.

Violence against women

9. The goal of the Family Protection and Domestic Violence Bill is to provide for greater protection from violence within domestic relationships, clarify the duties of the police and other law enforcement agencies, introduction of protection orders and others measures to reduce and prevent violence and promote the safety and wellbeing of victims of violence and also to hold perpetrators liable for their actions. Most importantly the State party also takes into consideration its obligations and commitments under the relevant provisions of CEDAW and CRC.

The Family Protection and Domestic Violence Bill has come a long way since 2011. Most of the issues under the Bill are regarded as being sensitive in the context of Tuvalu and it was for that reason that cabinet tasked the Office of the Attorney General to take the Bill to the outer islands for further consultations despite the national consultations that had been undertaken on the main island Funafuti.

The Office of the Attorney General and the Country Focal Officer for the Regional Rights Resource Team (SPC RRRT) in Tuvalu, were in the fore front with all the outer islands consultations that were undertaken and also national consultations that were again held on Funafuti. The consultations involved most of the members of the island communities on each island including island leaders, women and also the youth. Teachers from the primary school on each island since there is only one primary school on each island, were also involved in the consultations. Members of island communities raised quite a number of issues that were of great concern to them and also their island communities with regards to the application of the law once it comes into place and other related matters.

The Bill is confirmed to be passed during the next session of Parliament which is to be held from 16-19 December 2014. The Office of the Attorney General and the RRRT Country Focal Officer together with the assistance from SPC RRRT are currently working on the Implementation Plan of the Bill once it is passed.

With regards to the State party having to repeal the discriminatory provisions in its Penal Code, this will be considered as part of the Legislative Review that the government is planning to undertake soon. Corporal punishment has been banned in schools and it is an issue that will also be considered to be included in our laws during the Legislative Review consultations that will be undertaken.

10. Since Tuvalu's laws with regards to addressing the above mentioned issues are a path way through, the Family Protection and Domestic Violence Bill acknowledges and provides for the protection of domestic violence victims. This is stipulated under Part 10 of the Family Protection and Domestic Violence Bill under section 59, 60, 61 and 62. These provisions of the Bill provides for the establishment of a fund for victims of domestic violence and the fund shall be then applied towards material support for victims of violence, construction of victim support centres and shelters and for training and capacity building of persons who have major roles and functions under the Bill.

Victims of violence access to immediate and effective means of redress and protection through counselling from the Tuvalu National Council of Women, Police, Ekalesia Kelisiano Tuvalu (mother church), other religious beliefs and the Gender Affairs Department. In most cases Domestic Violence cases reported to Police

where the victim and perpetrator are asked on their choice of counselling from the service providers mentioned earlier.

The Tuvalu Women Crisis Centre was established in 2008 housed under the Tuvalu National Council of Women. The centre has a counselling room for victims requesting for a one to one counselling for 24 hours and also available on phone conversation.

A lot of women have been utilising the centre ever since its establishment, however just recently women became reluctant to seek counselling for fear of being seen by their husbands or relatives which might put them in a more vulnerable stage further abuses.

Trafficking in women and exploitation of prostitution

11. The report acknowledges the lack of information on exploitation of women in prostitution or trafficking (para. 60). Please indicate whether the State party intends to establish a data collection system and to conduct studies and surveys on the prevalence and causes of exploitation of women and girls in the State party, as previously recommended by the Committee (CEDAW/C/TUV/CO/2, para. 34). Please provide information on the measures taken to identify victims of trafficking, protect and provide them with rehabilitation and reintegration services. Please also provide information on the number of investigations, prosecutions and on the sentences imposed in cases of trafficking. Please indicate whether the State party intends to review and repeal discriminatory provisions in the Penal Code relating to prostitution.

The police services department has a domestic violence Unit which is responsible for all information on domestic violence including the exploitation of women in prostitution or trafficking. Since the establishment of the Unit within the police services department is fairly new, the data collection system is not an updated one and is still under proper construction. However unreported cases of such incidents is a contributing factor of the lack of information and data within the Unit.

Tuvalu is such a small country with a population of 10,782 which 6,152 residing on the capital Funafuti and 4,630 living on the outer-islands. Due to its smallness geographically and population wise, everyone seems to know each other and the incidents that happen from day to day. Currently there is no case of trafficking being reported or known. Public awareness on human trafficking and prostitution is ongoing to address the issues and to encourage the public to report such cases when known.

Very recently there have been police investigations of teenage girls engaging in sexual services or in other words trying to set up a brothel. However this information has not been confirmed and police are still trying to verify and get material evidence on this incident. In court proceedings, there's hardly cases of prostitution or trafficking. However the number of sexual offence cases is increasing and there is also anticipation of cases to do with prostitution to be evident in the future as the number of sexual offence cases is increasing drastically.

Participation in political and public life

12. The Gender Affairs Department and the Regal Right Resource Team (RRRT) continuously raised awareness programme on human right and temporary special measures. Human Right workshops and radio programmes are the main measures taken in awareness-raising to the public. Although temporary special measures not yet incorporated into policies, government and non-governmental organizations already practiced the norms of inclusive participation of both males and females in board members, task forces and committees.

However the proposed amendments to the Falekaupule Act 1997 allows both men and women aged 18 years and above eligible to vote in Falekaupule assemblies which is the only authorizing Falekaupule to authorize annual budgets.

Nationality

13. The Government of Tuvalu acknowledges the importance of CEDAW. The review of laws that the government is planning to undertake will require massive participation of all stakeholders, especially the grassroots people to be able to take on board the changes that will come into effect and for them to be able to adapt to the possible changes that will be made. Therefore massive participation of the population will require national consultations with the island communities and this will depend much on the availability of funds.

However it is important to note that the Government of Tuvalu sees this as a priority for the laws to be reviewed in order to reflect human rights perspective especially in areas of equality amongst men and women particularly in the area of family law and related domestic violence issues.

Education

14. The percentage of girls enrolled in Primary on the outer islands is 99.7% and about 98.3% of girls enrolled in Primary schools in the capital. For secondary schools 89.95% of girls enrolment in secondary education on the outer islands and 71.9% secondary schools enrolment in the capital. Tertiary education about 1.8% of women enrolled while 12.4% of women enrolled on the capital. However in comparison with boys and men there are more girls enrolled in primary and secondary while slightly more men enrolled in tertiary on the capital of 12.7% compared to women of 12.4%. Overall there are more girls and women enrolled in education then boys and men.

The issue on older girls often missed school to care for their younger siblings have now been addressed with Police Officers working together with Primary School Teachers to follow up with parents on such cases. Radio programmes separately organized by the Education Department and Police Force promote the issue that illegal to keep children away from school. In addition, students in Primary Education are not required to pay any mandatory requirement like school fees and other necessary cost barriers.

The Tuvalu Maritime Training Institute is now opened for girls and in 2014 two girls were enrolled.

15. The concerned raised are:

(i) There is no information available on "push outs"

(ii) No monitoring system in place for school "push outs"

(iii) The position on corporal punishment in the Education Act Penal Code has not been changed.

All information on school rolls including those who disappear from school during the year starting in 2013 are in the TEMIS. This is the Government (Education) system developed to capture all educational related data, including the information on push outs.

The Education Act is in the process of being revised and this provision is one of the priorities under consideration.

A special Vocational Training programme was prepared for all government owned primary schools covering carpentry, cooking, basic mechanical engineering and agriculture. For Year 13 students, the government owned secondary school is delivering Fiji National University courses on Carpentry & Joinery, Fabrication & Wielding and Applied Computing through franchise mode. Two of the existing TVSD programmes are more geared towards boys hence the Ministry of Education is negotiating more franchise-mode programmes that will also attract and are relevant to Tuvaluan girls considering our socio-economic context.

Employment

16. The Department of Labour under the Ministry of Foreign Affairs is at the moment engaged massively in working together with the International Labour Organization to review our Labour laws. This year (2014) the Labour Department working in conjunction with the International Labour Organization held a workshop with relevant stakeholders on the significant changes that needs to be put in place with regards to the Labour laws that currently exist in Tuvalu. Findings from the workshop confirmed that massive changes needs to be put in place as our Employment Act comprises discriminatory provisions with regards to matters related to women's employment in the public service.

Recently as a result of the findings from the workshop, a Committee was set up to particularly work on the review of the labour laws. The Office of the Attorney General is part of the Committee and the progress of the review at the moment is that ILO has drafted a model law which has been taken up by the Labour Department to the Committee for discussion. The Office of the Attorney General as part of the Committee was tasked to look into the model law as to how it addresses the issues that currently exist in our labour laws and that need to be changed. The Attorney General's Office's views on the model law have been given to the Department of Labour to liaise with ILO on the proposed comments for consideration.

Health

17. The Ministry of Health treats abortion from a medical perspective. So far, there are no abortion cases or situations in which a legal abortion has been

conducted at Princess Margaret Hospital (PMH) for non-medical reasons. The only cases treated at PMH are those early pregnancies that bled and medical attention is needed to prevent miscarriage in early pregnancy (i.e. inevitable or threatened or incomplete), and most importantly trying to save the pregnancy and also safeguard the mother.

Decriminalizing abortion is still a sensitive topic within the Tuvalu community at large. Based on some sources, there are few women who still use traditional healers to carry out abortion, without the knowledge of health professionals. Due to the fact that abortion is a legal offence, the Health Department carries out counselling and advice, through workshops on the issue to protect young women who are vulnerable from having unsafe abortion.

Health services are free to all Tuvalu citizens and non-Tuvaluans who are employed on contract basis by the Government of Tuvalu. The Ministry of Health (MOH) advocates for safe motherhood during antenatal periods based on its health programmes run by the Health Department. It also promotes the increase utilisation of family planning methods available in-country as this will prevent further transmission of sexually transmitted infections such as HIV and AIDS.

During antenatal clinics every week on Wednesday and Thursday, mothers are taught by nurses, medical doctors and other health professionals on prenatal, during delivery, and post-natal care. They are given a Maternal Health Book in antenatal clinic, whereby they can refer to it regarding basic facts on motherhood, antenatal clinics and their health records. It is a very useful book for the mothers in terms of increasing their knowledge on the basic events of pregnancy. The Health Department also uses health commemoration days, for example breastfeeding week to advise mothers in the communities on any maternal health issues, including miscarriages.

Outer island nurses conduct their outreach health programmes to women groups in the communities. A one-to-one counselling of young girls is done without the older women present, due to the sensitive of the topic to discuss openly among a mixed groups of young girls and older women. This approach is encouraged by the Health Department for confidentiality and to avoid discrimination of young girls or women.

The maternal mortality rate has decreased since 2009, however, in 2012 there was one maternal death in the outer island and one maternal death on Funafuti in 2014 from serious complications of pregnancy (Health Statistics, MOH). These attributed to both mothers who have different views and attitudes on attending antenatal clinic and the need to strengthen the health system infrastructures to support the necessary obstetric care services in the long term.

The country recorded its first case of HIV in 1995 and by 2009, had 11 cases (HIV/AIDS Unit, MOH). Of the 11 known cases, nine people are still alive and two have died of AIDS- related illnesses. Seafarers account for eight cases of HIV; the others are one housewife, one student and one child. There are no reported cases of HIV/AIDs since 2010. However, a recent rise in reported cases of STIs at the main hospital and, in particular, in the young population of 15-25 years could point to a further rise in HIV cases in the country in the near future. There were no study/research in most at risk populations conducted in Tuvalu nor estimations of sizes or mapping was conducted.

Tuvalu has identified seafarers, MSM and young adolescents as it high risk groups. Review and development of new STI and HIV plan for seafarers is underway. Whole-population approach is used for any health promotional programmes. The reason for this is the cultural context, beliefs and practices associated with HIV/AIDS. In 2011, the biggest achievement was getting two HIV ambassadors from Fiji, who were sponsored by PIAF (male/female) to publicly speak about their HIV status.

Social changes in Tuvalu have included an increase in alcohol abuse among youths, teenage pregnancies, and the number of young people engaged in risky sexual behaviours, particularly on the main island of Funafuti. Urban drift and increased international travel all contribute to the growing risk of transmission of HIV and other STIs in Tuvalu. The pace of social change has a major impact on young people's health and wellbeing. Young people in urban Funafuti face many challenges — negotiating growing consumerism; changing social values; access to the culture of modernity associated with music videos; overt sexuality that conflicts with their own culture; and self-image issues — and these are compounded by the problem of alcohol abuse.

Baseline behavioural surveys of seafarers and young people in the past few years have highlighted risk behaviours among key groups and the need for ongoing and expanded behavioural surveillance. In Tuvalu, there are no known injecting drug users nor recognized commercial sex workers, however, there are anecdotal reports of informal transactional sex arrangements.

The Health Department conducted a lot of awareness programmes in the area of sexual and reproductive health. These programmes include information on STIs, condom distribution, counselling, etc. However, there is still some resistance in terms of IEC materials on STIs as well as the availability of condoms at certain places. The Health Department has also conducted various awareness programmes to youths, in order to deal with the issue of teenage pregnancies as well as VCCT, which is offered to all pregnant mothers in Funafuti. Counselling is done by a group of certified HIV counsellors.

According to the Health Department, there are no new cases recorded since the last case in 2009. This reflect the fact that knowledge on HIV/AIDS transmission has increased immensely coupled by the many outreach health programmes from the Health Department and its partners such as TuFHA, Tuvalu Red Cross Society, TANGO and other stakeholders of the Tuvalu National AIDS Committee (TuNAC).

Work is continuing in finalising the draft new HIV legislation. Currently, there is a revised concept note on HIV and STI activities been adopted in October 2014 for the year 2015 to 2017 under the Global Fund project with the Secretariat of the Pacific Community (SPC). The new HIV and STI work plan covers the following priority areas:

- Priority Area 1: Achieving an enabling environment
- Priority Area 2: Prevention of HIV and other STIs
- Priority Area 3: Treatment Care and Support
- Priority Area 4: Programme Management

A HIV Policy has been devised to ensure the rights of people who are either infected or affected by HIV. This policy is now widely distributed for implementation.

The NSP 2009-2013 noted a repeated pattern in the development of strategies to guide subsequent interventions. Outputs are prefaced by studies in order to inform a specific strategy. This is to ensure that the response to HIV is evidence based rather than predetermined driven.

As all Tuvaluans are fiercely proud of their national heritage and culture, it is imperative that the new NSP respects and reflects cultural sensitivities while at the same time acknowledging the challenges HIV presents to Pacific Island nations. The reality of HIV challenges all traditional cultures in complex and threatening ways. This National strategic Plan offers a realistic appraisal of the epidemic and proposes a measured response that is both comprehensive and culturally sensitive. Engagement by non-governmental, faith-based and community organizations is a critical component of the new revised NSP.

TuNAC is the main body co-ordinating HIV activities across the country. This includes activities within the Ministry of Health, as well as among implementing partners in non-governmental (NGO) faith-based (FBO) and community based (CBO) organizations. These same organizations are actively involved in HIV-related interventions, which comprise the TuNAC membership. TuNAC targets all the vulnerable groups including, young girls and boys, women and men in the communities. Some programmes target women groups only during their island women day celebrations, annual women meetings e.g. Tuvalu National Council of Women Annual General Meeting (AGM) to discuss sensitive issues in regards to sexual reproductive health in its broader sense.

Local agents of foreign companies that hired seafarers from Tuvalu to work abroad barred persons with HIV/AIDS from employment. So far, there were no recorded cases. The government and NGOs cooperated to inform the public about HIV/AIDS and counter discrimination. There were no reports of violence against persons based on HIV/AIDS status reported in Tuvalu.

Raising awareness to government personnel is a challenge to the TuNAC in terms of; arranging a proper and appropriate time to coordinate the training to all civil servants, especially to Cabinet members and Members of Parliaments, due to their busy schedules. To overcome the barriers, TuNAC distribute IEC materials on HIV and STIs to all offices within the Government building and NGOs and uses its members to share HIV and STIs facts with their co-workers. However, more effort is needed to reach out to government personnel in the areas of sexual reproductive health.

Rural women

18. The Government of Tuvalu prioritises legislative review of its laws that have discriminatory provisions as it is important that it complies with its international obligations that it had committed to. However funding will be a great need required in order to undertake proper and thorough consultations with island communities and other important stakeholders.

Tuvalu has in place a Water and Sanitation Policy that was implemented in 2013. However having a legal framework in this area is something to be considered during the legislative review in order to give more legal effect to the Policy that is used at the moment and also to have equal rights of women including children and men to safe drinking water and sanitation.

In particular women in the outer islands of Tuvalu do have access to credits from the Development Bank of Tuvalu to set up their own small businesses for a start. However due to certain internal policies of the bank, unemployed women in the past have lesser chances in getting a loan from the bank. However the bank has undertaken efforts to bend its policies to be more lenient on such matters.

Recently the Gender Affairs Department had just implemented a Gender Policy which one of its priority outcomes is to create an enabling environment for the full participation and recognition of women in economic development.

Disadvantaged groups of women

19. Tuvalu ratified the Convention on the Rights of Persons with Disabilities in 2013. This was a step forward in which Tuvalu had decided to commit to at the global arena and also considering the importance of recognizing the human rights of persons with disabilities.

The next step now is to have a social framework through having a Policy in place to give more effect to the principles set out in the convention at the national level. The Community Affairs Department and the "Fusialofa" (an organization associated with Persons with Disabilities) are working together under the assistance from the Pacific Islands Forum Secretariat in trying to put together the Policy.

Marriage and family relations

20. Having a legislative review is very crucial to most of the laws in place that have discriminatory provisions. Trying to put in place our Family Protection and Domestic Violence Bill is a step forward in trying to improve Tuvalu's perspective on Human Rights issues particularly in the area of family law and domestic violence.

Therefore the Government of Tuvalu envisions and is planning to have a comprehensive compliance family law to be put in place after the island community consultations have been undertaken for the changes that are to be made to our laws that have discriminatory provisions.

Optional protocol and amendment to article 20 (1)

Tuvalu has not acceded to the Optional Protocol to the Convention. Since Tuvalu does not have any reservations on the Convention itself, the Government sees this as something crucial as a party to the Convention and should be taken into consideration in the near future.